

## Message Text

SECRET

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41

ACTION SS-30

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /031 W

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O 031710Z JUL 74

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC IMMEDIATE 4472

INFO AMEMBASSY JAKARTA IMMEDIATE

AMEMBASSY MANILA IMMEDIATE

AMEMBASSY SUVA BY POUCH

S E C R E T SECTION 1 OF 2 CARACAS 6102

EXDIS

FROM USDEL LOS

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS - ARCHIPELAGOS

REF: (A) MANILA 6856; (B) MANILA 7511; (C) CARACAS 6023;

(D) CARACAS 6024; (E) CARACAS 6038; (F) JAKARTA 7984.

1. SUMMARY: IN JULY 2 MEETING WITH PHILIPPINE DEL, THEY WERE POSITIVE BUT NON-COMMITTAL ON DEFINITION OF ARCHIPELAGOS, BUT VERY NEGATIVE ON TRANSIT REGIME. THEY SAID THAT WHILE THEY WERE WILLING TO GRANT TRANSIT RIGHT, IT MUST BE SUBJECT TO COAST-STATE REGULATIONS. THEY REJECTED SUBMERGED TRANSIT AND OVERFLIGHT. SEVERAL REFERENCES MADE TO U.S. RIGHTS UNDER BASE AGREEMENTS OR SATISFACTORY SUBSTITUTE. DEL RECOMMENDS STRONG ACTION BY DEPARTMENT AND AMEMBASSY MANILA AS INDICATED HEREIN. END SUMMARY.

2. PARTICIPANTS: PHILIPPINE PARTICIPANTS WERE AS FOLLOWS:

JOSE D. INGLES, UNDER-SECRETARY OF FOREIGN AFFAIRS; VICENTE ABAD SANTOS, SECRETARY OF JUSTICE; ALEJANDRO D. YANGO, ASST. SECRETARY, UN AFFAIRS AND INTERNATIONAL CONFERENCES, DEPT. OF FOREIGN AFFAIRS; JORGE COQUIA, JUDGE OF COURT OF FIRST INSTANCE; LAURO L. BAJA, JR., 2ND SECRETARY, PERMANENT MISSION TO THE UN; MARIO G. MANANSALA, SECRET

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CHIEF GEOPHYSICIST, BUREAU OF COAST AND GEODETIC SURVEY;

ELVIRA O. TAN, SENIOR SCIENTIST, NATIONAL SCIENCE DEVELOPMENT BOARD; PROF. JOSE ESPINOSA, CONSULTANT, NATIONAL ECONOMIC DEVELOPMENT AUTHORITY. SANTOS DID MOST OF TALKING, WITH YANGO APPARENTLY ATTEMPTING TO SOFTEN IMPACT OF SANTOS' REMARKS AND KEEP DIALOGUE ALIVE. U.S. DEL, LED BY MOORE, INCLUDED OXMAN (STATE), ADMIRAL MORRIS (DOD), NORDQUIST (STATE), TAFT (COMMERCE), AND YOST (TRANSPORTATION).

3. DEFINITION: SANTOS BEGAN BY SAYING PERHAPS PHILIPPINES CAN LIVE WITH U.S. PROPOSALS ON LENGTH OF BASELINE AND LAND-WATER RATIO. HE NOTED A PROBLEM WITH LINE ENCLOSING MORO GULF, BUT FELT IT COULD BE RESOLVED.. AFTER NEGATIVE U.S. REACTION TO HIS REMARKS ON TRANSIT ISSUE, HIS LATER REMARKS ON DEFINITION OF ARCHIPELAGO WERE MORE POSITIVE, AND HE RELATED HIS RESERVATIONS MAINLY TO PROBLEMS OF OTHER ARCHIPELAGO NATIONS.

4. TRANSIT REGIME: SANTOS SAID PHILIPPINES CANNOT LIVE WITH U.S. SUGGESTION THAT IT GRANT FREE AND UNREGULATED TRANSIT. IT WOULD BE CONTRARY TO PHILIPPINE CONSTITUTION, WHICH HAS DECLARED THOSE WATERS TO BE INTERNAL WATERS.

A. REGULATION. SANTOS SAID PHILIPPINES WILLING TO GRANT REGULATED PASSAGE. HE REFERRED TO ECUADOR-PANAMA-PERU ARTICLES WHICH GRANT RIGHT SUBJECT TO REGULATION OF ARCHIPELAGO STATE. HE ARGUED THAT IT IS NOT IN PHILIPPINE INTEREST TO DELAY TRANSIT. WHEN PRESSED ON ISSUE, HE RESTATED IT AS FOLLOWS: "WE WILL CONCEDE TRANSIT THROUGH ARCHIPELAGIC WATERS AS A MATTER OF RIGHT IN A MULTILATERAL TREATY, SUBJECT ONLY TO SUCH REASONALBE RESTRICTIONS AS MAY BE IMPOSED BY ARCHIPELAGIC STATE. THE REGULATIONS HAVE TO BE NATIONAL." IN RESPONSE TO MOORE'S SUGGESTION THAT PHILIPPINE DEL SPECIFY MATTERS REGUIREING REGULATION AS IT MIGHT BE POSSIBLE TO DEAL WITH PROBLEMS IN TREATY, SANTOS SAID HE WOULD HAVE TO CONSULT MANILA. IN RESPONSE TO SANTOS'S INQUIRY REGARDING HOW HE COULD JUSTIFY U.S. PROPOSED REGIME UNDER PHILIPPINE CONSTITUTION, OXMAN SAID THIS WOULD BE A NEW REGIME OF ARCHIPELAGIC WATERS WITH NEW CONCEPTS TAILORED TO NEEDS OF ARCHIPELAGO NATIONS AND TRANSIT NEEDS IN ARCHIPELAGOS; PHILIPPINE EXPERTS THEMSELVES REGARDED THIS AS A NEW CONCEPT, AND THERE WAS NO NEED TO TIE IT TO OLD REGIMES SUCH AS INTERNAL WATERS, TERRITORIAL WATERS, OR HIGH SEAS. WE WERE WILLING TO WORK WITH PHILIPPINE DEL ON LANGUAGE TO COVER THIS POINT. SANTOS SAID THIS WAS NOT SATISFACTORY.

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B. SUBMERGED TRANSIT: IN RESPONSE TO MOORE'S INQUIRY ON SUBMERGED TRANSIT, SANTOS SAID, "WE CANNOT CONCEDE THAT."

C. OVERFLIGHT: IN RESPONSE TO MOORE'S INQUIRY ON OVERFLIGHT, SANTOS SAID, "THAT WOULD SEEM TO BE OUT OF THE QUESTION."

D. SECURITY AGREEMENTS: SANTOS SEVERAL TIMES QUESTIONED WHY U.S. NEEDED EXTENSIVE TRANSIT RIGHTS IN MULTILATERAL TREATY SINCE IT HAD RIGHTS UNDER SECURITY AGREEMENTS WITH PHILIPPINES. PHILIPPINE PROBLEM WAS OPENING ITSELF UP TO EVERYONE ELSE.

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EXDIS

5. STRAITS: MOORE NOTED THIRD POINT IN U.S. PACKAGE, NAMELY SUPPORT FOR UNIMPEDED PASSAGE IN STRAITS (OUTSIDE ARCHIPELAGO). SANTOS REFERRED TO PHILIPPINE CO-SPONSORSHIP OF STRAITS PROPOSAL WITH OTHER STRAITS STATES (WHICH U.S. PUBLICLY REJECTED IN VERY STRONG TERMS), AND ALLUDED TO DIFFICULTIES FOR PHILIPPINES IN EXTRICATING ITSELF. YANGO INQUIRED IF TRANSIT REGIME IN STRAITS AND ARCHIPELAGOS WOULD BE THE SAME. MOORE SAID THEY WOULD BE DIFFERENT, SINCE THE SITUATIONS WERE DIFFERENT, BUT RESPONDED POSITIVELY TO YANGO'S INQUIRY AS TO WHETHER THE UNDERLYING CONCEPT OF TRANSIT WAS THE SAME.

6. TIMING: IN FACE NEGATIVE U.S. REACTION, YANGO SAID IT WAS STILL EARLY, WE WERE STILL IN GENERAL DEBATE, AND THERE WAS NO HURRY. MOORE EXPLAINED THAT WE EXPECTED MAJOR ISSUES TO BE DECIDED AT CARACAS WHETHER OR NOT ANOTHER SESSION AT VIENNA WOULD BE NEEDED, AND WE ACCORDINGLY HAD TO MAKE DECISION IN THE VERY NEAR FUTURE AS TO WHETHER WE COULD SUPPORT INCLUSION OF ARCHIPELAGO CONCEPT. PHILIPPINES LIKewise HAD TO CONSIDER THAT ARCHIPELAGO PRINCIPLE WAS NOT ACCEPTED AT 1958 CONFERENCE, AND WHETHER IT WISHES TO ACHIEVE INTERNATIONAL RECOGNITION OF CONCEPT. THE TRANSIT REGIME IS THE KEY QUESTION IN THIS REGARD.

7. ANALYSIS: WE SEE NO BASIS FOR ACCOMMODATION ON ARCHIPELAGO ISSUES IN PHILIPPINE REMARKS. EXCEPT ON THE QUESTION OF DEFINITION, PHILIPPINE REACTION, ALTHOUGH NOT ENTIRELY SURPRISING, WAS NON-RESPONSIVE, AND SHOWED VIRTUALLY NO MOVEMENT FROM PRIOR

PUBLIC POSITION OR INTEREST IN NEGOTIATION. THIS MAY WELL REFLECT

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CONSCIOUS DECISION TO PERMIT U.S.-INDONESIAN NEGOTIATIONS TO GO FORWARD WHILE TAKING A COMPLETELY HARD-LINE POSITION. IN LIGHT REMARKS ON TIMING, AND SOME SIGNS OF INTERNAL CONFUSION ON STRAITS ISSUE, IT ALSO MAY BE THAT NO DECISION BY PRESIDENT MARCOS ON U.S. TRANSIT PROPOSALS HAS BEEN SOUGHT OR MADE, AND THAT GOP IS FOLLOWING EXISTING POSITIONS PENDING A SUBSEQUENT DECISION ON NEGOTIATION. IN THIS SITUATION, WE BELIEVE THE U.S. SHOULD (1) ATTEMPT TO SOFTEN PHILIPPINE APPROACH DIRECTLY AND BY ENCOURAGING THE INDONESIANS TO DO SO, AND (2) LAY THE FOUNDATION FOR A BREAK WITH THE PHILIPPINES BY INDONESIA, SUPPORTED BY OTHER ARCHIPELAGO NATIONS.

8. RECOMMENDED ACTION WITH RESPECT TO PHILIPPINES: DEL RECOMMENDS HIGH LEVEL APPROACH BY DEPARTMENT AND BY AMBASSADOR SULLIVAN ALONG FOLLOWING LINES:

A. U.S. MADE EARNEST EFFORT TO ACCOMMODATE CONCERNS OF ARCHIPELAGO NATIONS, INCLUDING PHILIPPINES. U.S. SURPRISED AND VERY DISAPPOINTED BY REACTION OF PHILIPPINE DEL TO U.S. PROPOSALS. WITH RESPECT TO KEY QUESTION OF TRANSIT, THERE WAS NOTHING MORE THAN A RECITATION OF PUBLIC PHILIPPINE POSITIONS AND IN FACT PHIL DEL SEEMED POORLY INFORMED ON U.S. PROPOSAL.

B. WE EXPECT MAJOR LOS ISSUES TO BE RESOLVED AT CARACAS WHETHER OR NOT ANOTHER SESSION IN 1975 IS NEEDED. ARCHIPELAGO CONCEPT WAS REJECTED AT EARLIER LOS CONFERENCE, AND HAS NOT BEEN RECOGNIZED BY MAJOR MARITIME NATIONS. WE ARE PREPARED TO SUPPORT AN ACCOMMODATION AT CARACAS THAT WOULD INCLUDE ARCHIPELAGO CONCEPT IN LOS TREATY ON BASIS OF SATISFACTORY TRANSIT REGIME FOR ARCHIPELAGIC WATERS AND SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS (OUTSIDE ARCHIPELAGOS). HOWEVER, WE MUST MAKE DECISION SOON AS TO WHETHER SUCH AN ACCOMMODATION IS POSSIBLE, AND CAN BE SUPPORTED BY ARCHIPELAGO NATIONS. RECOGNITION OF ARCHIPELAGO THEORY AND AGREEMENT ON INCLUSION IN LOS TREATY IS A MAJOR CONCESSION BY U.S. AND OTHER MARITIME NATIONS; WE SEE NO POINT IN MAKING THAT CONCESSION IN THE ABSENCE OF AN ACCOMMODATION BY ARCHIPELAGO NATIONS.

C. THE PHILIPPINES IS NOT THE ONLY ARCHIPELAGO. THE SECURITY RELATIONSHIP BETWEEN THE U.S. AND THE PHILIPPINES SHOULD MAKE THE GOP SENSITIVE TO THE GLOBAL NAVIGATIONAL NEEDS OF THE U.S. IN ARCHIPELAGOS AND IN STRAITS. WE SIMPLY CANNOT RECOGNIZE THE ARCHIPELAGO THEORY AND THEN RELY ON THE GOOD WILL OF ARCHIPELAGO NATION TO GRANT US ESSENTIAL TRANSIT RIGHTS. THE LOS TREATY ITSELF MUST PROTECT THOSE INTERESTS IF IT IS TO INCLUDE RECOGNITION OF THE ARCHIPELAGO CONCEPT.

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D. INQUIRE AS TO WHETHER WE CAN EXPECT A FORTHCOMING RESPONSE TO OUR PROPOSALS IN THE NEAR FUTURE, AND IN THIS CONNECTION, WHETHER MENDOZA WOULD PLAN TO COME TO CARACAS SOON FOR THE PURPOSE OF FURTHER NEGOTIATION.

9. RECOMMENDED ACTION WITH RESPECT TO INDONESIA: IN THE COURSE OF URGING EARLY DEPARTURE OF MOCHTAR AND SUDARMONO, RECOMMEND EMBASSY NOTE, WITHOUT GOING INTO DETAIL, THAT PHILIPPINE UNRESPONSIVENESS INCREASES THE URGENCY OF DETERMINING WHETHER OR NOT A SATISFACTORY ACCOMMODATION IS POSSIBLE, WITH GOI, AND INQUIRE WHETHER GOI BELIEVES GOP UNDERSTANDS THAT THIS IS LAST BEST CHANCE TO ACHIEVE AN ACCOMMODATION AND THAT WE AND OTHERS WOULD SEE NO POINT IN SUPPORTING, AND WOULD OPPOSE, ARCHIPELAGO CONCEPT IN ABSENCE ACCOMMODATION BY ARCHIPELAGO NATIONS ON TRANSIT ISSUES. RESPONSE TO REFERENCE (F) FOLLOWS SEPTE. STEVENSON

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## Message Attributes

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**Copy:** SINGLE  
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**Decaption Date:** 28 MAY 2004  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
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**Enclosure:** n/a  
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**Reference:** (A) MANILA 6856; (B) MANILA 7511; (C, ) CARACAS 6023;  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 19 MAR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <19 MAR 2002 by izenbei0>; APPROVED <09 MAY 2002 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LOS - ARCHIPELAGOS  
**TAGS:** PLOS, PBOR, PFOR, RP, US, CARACAS  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005